

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CV 6042

Emilio Emmanuel Perez

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

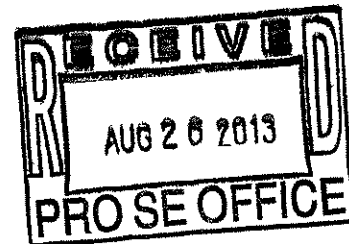
Mount Sinai Medical center

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the space
provided, please write "see attached" in the space above and
attach an additional sheet of paper with the full list of names.
Typically, the company or organization named in your charge
to the Equal Employment Opportunity Commission should be
named as a defendant. Addresses should not be included here.)

COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION

Jury Trial: ☒ Yes ☐ No

(check one)



This action is brought for discrimination in employment pursuant to: (check only those that apply)

_____ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

_____ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

✓ _____ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

_____ New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

_____ New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Emilio Emmanuel Perez
 Street Address 228 Maple Avenue, Apt # 6G
 County, City New York, New York
 State & Zip Code New York, 10034
 Telephone Number 347-612-2395

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name Mount Sinai Medical Center
 Street Address One Gustave L. Levy Place
 County, City New York, New York
 State & Zip Code New York, 10029
 Telephone Number (212) 241-6500 - General Phone Line

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer Mount Sinai Medical Center
 Street Address One Gustave L. Levy Place
 County, City New York, New York
 State & Zip Code New York, 10029
 Telephone Number (212) 241-6500 General Phone Line

II. Statement of Claim:

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: (check only those that apply)

Failure to hire me. ☒

Termination of my employment. ☒

Failure to promote me. ☒

Failure to accommodate my disability. ☐

Unequal terms and conditions of my employment. ☐

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A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: 2012 (Date)

III. Exhaustion of Federal Administrative Remedies:

Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.

E. The facts of my case are as follow (attach additional sheets as necessary):

☒ disability or perceived disability, Rheumatic Arthritis (specify)

☐ age. My date of birth is _____ if you are asserting a claim of age discrimination. (Give your date of birth only)

☒ national origin Dominican Republic

☐ gender/sex _____

☐ religion _____

☐ race _____

☐ color _____

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

_____ is not still committing these acts against me.

_____ is still committing these acts against me.

C. I believe that defendant(s) (check one):

B. It is my best recollection that the alleged discriminatory acts occurred on: January 17, 2013 Date(s)

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

Other acts (specify): _____

Retaliation. _____

Emilio Perez

228 Nagle Ave, Apt-6C

New York, NY, 10034

To Whom It May Concern:

I was hired March 7, 2011 at Mount Sinai Medical Center as a Security Officer, I became really sick, with multiple symptoms of Psoriatic Arthritis which I didn't know I was suffering from this chronic autoimmune disease. I went and visit Doctor Rennie Howard a Rheumatologist, the doctor proceeded to send me to the NYU Laboratory for blood work and X-rays and other procedures were made for evaluation. I was diagnosed with Psoriatic Arthritis, I requested reasonable accommodation due to my disease because it comes with very painful side effects which unable me to perform essential function of my job position as a Security officer which includes the restraining of patients and others in any occasion while on duty. Letters from my doctor were provided as proof of my condition and some of the limitations, I was laid off on October 4, 2012, thereafter I tried contacting H.R. department to get reassigned to another vacant position that I was interested in that didn't involved brute force as restraining a patient, such as patient transport and other positions as reasonable accommodation under the American with Disability Act (ADA). I was ignored by the H.R. Staff -Norma Torres that was the initial staff that hired me as a Security Officer. I was even denied access to the H.R. department. I also tried multiple times to leave voice messages in her direct phone and messages with receptionist, which was all a failure. One of the days I visit the H.R. building, I was in conversation with multiple Security Officers of that specific building, I was asked what was the purpose of my visit and I explained my situation of disability and that I was trying to get reassigned to another vacant job, they stated they were reassigned due to present disability they have and one of them showed me her finger and stated she was reassigned because she had a disability, they were all Puerto Rican.

I was informed by the Security officers to go to the labor relations H.R. department, which I did and I was asked to speak with my supervisor, which made an appointment after several attempts from my part to speak to someone in labor relations. I spoke to Mr. Bernard Dumas from labor relations, I was informed I was going to be provided with FMLA and he gave me an FMLA form for my doctor which she filled out and I returned the FMLA form back to labors relations, I spoke to Mr. Bernard Dumas regarding my limitations of the essential functions of my job title as Security Officer and he informed me that if before the FMLA ran out I wasn't able to get my limitations corrected and return back with a clearance the next step was going to be to assigned me to a vacant position that will fit my medical condition to perform the job functions. Time passed and I was near the ending of my FMLA and I tried to contact Mr. Bernard Dumas, which was unsuccessful, I tried leaving

messages with the assistance administrator, which was also unsuccessful, I then found out he was no longer working with the Mount Sinai Medical Center and I was not informed until I tried contacting him again at the labor relation's office. I was then able to get in touch with Jeff Cohen which I explained my case with regards to Mr. Bernard and the procedures that were agreed which was reassignment to a vacant position as reasonable accommodation which then Mr. Jeff Cohen from labor relations asked me to send him the jobs I was feeling able to perform and I send him multiple positions which I felt I was able to perform, I was never reassigned and I ended up being terminated on January 17, 2013 as I received a letter of termination from Mr. Timothy Burgunder the Security Director at Mount Sinai.

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Signed this 26 day of August, 2013.

Signature of Plaintiff [Signature]

Address 228 Maple Avenue, Apt #66
New York, NY, 10034

Telephone Number 347-612-2395

Fax Number (if you have one) _____

I declare under penalty of perjury that the foregoing is true and correct.

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: Relief sought is the respondent to a
vacant job as reasonable accommodation. In addition, relief for
inflation of emotional distress and economic/financial harm for \$11,000,000.00
(Describe relief sought, including amount of damages, if any, and the basis for such relief.)

IV. Relief:

_____ 60 days or more have elapsed.
 _____ less than 60 days have elapsed.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

C. Only litigants alleging age discrimination must answer this Question.

Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.

_____ has not issued a Notice of Right to Sue letter.
 _____ issued a Notice of Right to Sue letter, which I received on June-2013 (Date).

B. The Equal Employment Opportunity Commission (check one):

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Emilio Perez
228 Nagle Avenue
Apt. 6-G
New York, NY 10034

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 846-2013-04908
EEOC Representative Patrick Sanford, Federal Investigator
Telephone No. (212) 336-3677

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Kevin J. Berry,
District Director

(Date Mailed)

JUN 24 2013

Enclosures(s)

cc:

Respondent:

The Mount Sina Medical Center
Attn: Human Resources Director
One Gustave L. Levy Place
New York, NY 10029-6574

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All States:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3620
General FAX: (212) 336-3625

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office



Kevin J. Berry
District Director

Via U.S. Mail

Emilio Perez
228 Nagle Avenue
Apt. 6-G
New York, NY 10034

Re: **Emilio Perez v. Mount Sinai Medical Center**
EEOC Charge No. : 846-2013-04908

Dear Mr. Perez:

The U.S. Equal Employment Opportunity Commission ("EEOC" or "Commission") enforces discrimination laws under Title VII of the Civil Rights Act of 1964 ("Title VII"), which prohibits employment discrimination based on race, color, sex, religion or national origin; the Equal Pay Act of 1963 ("EPA"), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination; the Age Discrimination in Employment Act of 1967 ("ADEA"), which protects individuals who are 40 years of age or older; The Americans with Disabilities Act ("ADAAA"), which prohibits discrimination against qualified individuals with disabilities, and the Genetic Information Nondiscrimination Act of 2008 ("GINA").

The EEOC has Charge of Discrimination ("Charge") prioritization procedures and these procedures call for the Commission to focus its limited resources on those cases that are most likely to result in findings of violations of the laws that we enforce. In accordance with these procedures the Commission has evaluated your Charge and based upon the evidence that you have submitted, the EEOC has decided not to further pursue its investigation of this Charge. This determination is final.

Your Determination/Notice of Right to Sue is enclosed. If you wish to pursue this matter you must file a lawsuit, on your own, in Federal District Court using the enclosed *Notice of Right to Sue* within **90 days** of your receipt of it. Once this 90 day period is over, unless you have filed a lawsuit, you will have lost your right to sue. If you have any questions regarding this matter, please contact Investigator Patrick Sanford at (212) 336-3677.

Sincerely,

Kevin J. Berry
for
District Director

JUN 24 2013
Date

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office
33 Whitehall Street, 5th Fl
New York, N.Y. 10004

Attn: Patrick Sanford

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

**Emilip Perez
228 Nagle Avenue
Apt. 6-G
New York, NY 10034**



10034\$5085 0006



Rennie Howard, MD
40 Park Avenue
New York, NY 10016
Tel: 212-213-6790 Fax: 212-696-5612
www.concordemed.com

11/13/2012

To Whom It May Concern:

Mr. Emilio Perez is currently under my care for diagnosis of psoriatic arthritis. This condition was first identified in September of this year. Symptoms include joint pain of the hands and spine. Treatment is being initiated, and while this is a chronic condition, there are expectations of improvement over the next few months.

Currently limitations include:
No physical restraint of patients

Thank you,

A handwritten signature in black ink, appearing to read "Rennie N Howard".

Rennie N Howard MD

Security Department
One Gustave L. Levy Place
Box 1249
New York, NY 10029-6574
Tel: (212) 241-5661
Fax: (212) 876-2384



January 17, 2013

Mr. Emilio Perez
228 Nagle Avenue, #6G
New York, NY 10034

Dear Mr. Perez,

Our records indicated that you have been on a leave of absence since October 5, 2012 and we have received your request to continue your leave. Your FMLA leave was exhausted on January 5, 2013 and there is no other leave time available to you. At this time, and without a return to work with full duty, we can no longer hold your position for you. After you are medically cleared to return to work, you may reapply for any position you are qualified to perform at Mount Sinai.

Thank you.

Tim Burgunder

Director

Security Department

File

Labor Relations

Concorde Medical Group
38 East 32nd Street, 9th Floor New York, NY 10016
(212) 725-2660 Fax: (212) 725-3660

July 29, 2013
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Patient Information

For : Emilio Perez

*Patient Instructions

Reason for your visit:

abdominal pain

Based on this visit, your provider recommended the following:

1) I will contact you when your test results are available. I am sending you for an ultrasound of your liver and abdomen now. If everything appears okay on your ultrasound, I will refer you to gastroenterology for assistance.
2) In the meantime, start Tums 500 mg with meals and omeprazole (Prilosec) 20 mg daily. Do not eat fatty foods or spicy foods. Do not drink alcohol or caffeine. Do not use nonsteroidal anti-inflammatory medications like aspirin, ibuprofen/Advil, Aleve, diclofenac, etc.

Problems associated with your visit include:

ABDOMINAL PAIN, EPIGASTRIC (ICD-789.06)
ABDOMINAL PAIN, RIGHT UPPER QUADRANT (ICD-789.01)

Complete Problems list:

ABDOMINAL PAIN, EPIGASTRIC (ICD-789.06)
ABDOMINAL PAIN, RIGHT UPPER QUADRANT (ICD-789.01)
ANXIETY (ICD-300.00)
CHEST PAIN, ATYPICAL (ICD-786.59)
SACROILIITIS (ICD-720.2)
PSORIATIC ARTHRITIS (ICD-696.0)
JOINT PAIN, HAND (ICD-719.44)
NECK AND BACK PAIN (ICD-723.1)

Most recent Vitals observed:

Weight: 211 pounds
Temperature: 98.1 degrees F
Pulse Rate: 103 beats/minute
Respiration Rate: 12 breaths/minute
Blood Pressure: 130 / 80 Hg

Scheduled Appointments:

<None>

Your current medications include:

***Patient Instructions**

For : Emilio Perez

Patient Information

Concorde Medical Group
38 East 32nd Street, 9th Floor New York, NY 10016
(212) 725-2660 Fax: (212) 725-3660

July 29, 2013
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- 1) DICLOFENAC SODIUM 75 MG TBEC (DICLOFENAC SODIUM) 1 tab po bid, take with food
- 2) ALPRAZOLAM 0.5 MG TABS (ALPRAZOLAM) Take one tablet by mouth twice a day as needed for anxiety.
- 3) ENBREL SURECLICK 50 MG/ML SOLN (ETANERCEPT) 50mg sq qweek [BMN]